NOTES OF CASES.

Exhumation of Body of Insured.—The executor of insured brought an action at law to recover on an insurance policy which, seemingly, had been obtained by fraud. Evidence that insured had suicided by poisoning was introduced, which, if true, would vitiate the policy. In Mutual Life Insurance Co. of New York *v.* Griesa et al., 156 Federal Reporter, 398, the United States Circuit Court for the District of Kansas held that a court of equity may, in aid of such defense, order the corpse exhumed for examination, although the widow, who had a right to control the body, was not a party.

Removal of Dead Bodies.—A half century after her decease the grave of an infant sister of plaintiff was opened, and the remains of defendant's mother, stepmother of plaintiff, were interred therein. No traces of the child's body were discovered, but the earth from the grave was removed to another location. In Wilson *v.* Read, 68 Atlantic Reporter, 37, the New Hampshire Supreme Court held that a decree commanding the restoration of the remains to the original sepulcher would be impossible of performance and futile. The defendants who owned the lot had not the right to disturb the grave already in the lot, nor had the plaintiff, as next of kin, a right to prevent the removal of the remains of one buried there, or other use of the land. The rights of each are bounded by rules of propriety and reasonableness, determinable by a court of equity.

Spring Gun.—Defendant so arranged a gun within his trunk that his landlady, inspired with curiosity, opening it, was killed by its discharge. Defendant was convicted of murder in the second degree; but, because of some legal technicality in the selection of the jury, his conviction was reversed. However, the Washington Supreme Court, in State *v.* Marfaudille, 92 Pacific Reporter, 939, remarked that a warning by accused to decedent would be no defense, unless her act was with intention to cause self-destruction, nor would a lack of intent to kill the particular person who fell a victim be any excuse.

Judicial Paternalism.—The trial judge had refused a new trial, saying that he thought that another jury might give even heavier damages. The New York Supreme Court, in Rogers *v.* Macbeth, 108 New York Supplement, 74, stamped the decision of the trial court as "paternalism foreign to judicial function," and said: "If the defendant chose to hazard another trial, it was not for the court to seek to save him from himself by withholding from him that which the court thought he was entitled to receive."